IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 6TH DECEMBER 2006 / 15TH AGRAHAYANA 1928

WP(C).No. 7866 of 2006(J)

PETITIONER:

NAJMAL BABU. K., S/O. MOHAMMED K.,
KORAMBAYIL HOUSE, THURAKKAL, MANJERI P.O.,
MALAPPURAM DISTRICT.

BY ADV. SRI.K.JAJU BABU
SMT.M.U.VIJAYALAKSHMI
SRI.BRIJESH MOHAN
SRI.SYAMJI RAM

RESPONDENTS:

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1. THE BAR COUNCIL OF KERLA,
REPRESENTED BY ITS SECRETARY, BAR COUNCIL
BHAVAN, HIGH COURT CAMPUS,
KOCHI-682 031.

2. THE ENROLMENT COMMITTEE,
BAR COUNCIL OF KERALA, REPRESENTED BY
ITS CHAIRMAN, BAR COUCNIL BHAVAN,
HIGH COURT CAMPUS, KOCHI-682 031.

BY SRI.GRACIOUS KURIAKOSE -S.C,B.C B/O

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C)NO.7866 OF 2006

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Dated this the 6th day of December 2006

JUDGMENT

Writ petition is filed challenging Ext.P7 enquiry report prepared by 2nd respondent for reference to Bar Council of India under Section 26 of the Advocates Act for decision as to whether petitioner's name should be removed from the roll of members of Bar Council of Kerala. Petitioner filed the application for enrollment on 15-11-2004 declaring that he was not engaged in any profession or trade. Based on the application, petitioner was enrolled as Advocate in the enrollment held on 21-1-2004. However, Bar Council immediately noticed that petitioner was employed as a member of the personal staff with a minister in the State Government even on the date of making application for enrollment. However, petitioner's case is that petitioner got a relieving order from Government by order dated 29-11-2004 relieving him with effect from 12-11-2004. In the enquiry proceedings, petitioner's educational qualification for enrollment is also questioned by the Bar Council on the ground that he has taken L.L.B. degree attending evening course. It is submitted by

counsel for petitioner that this issue is covered in favour of petitioner by judgment of this court. Counsel for respondent submitted that besides this issue, the misdeclaration about employment in the application of enrollment filled by petitioner is another issue on which reference is made by the Bar Council for their decision under Section 26 of the Advocates Act. It is to be noted that petitioner has filed writ petition and writ appeal challenging notice proposing enquiry. But this court did not interfere with the enquiry by the Bar Council. Petitioner's case is that since report is adverse to him, it is to open for challenge in this court again. I do not think there is any scope for interference because a report by itself is not a adverse decision against the petitioner. It cannot be denied that petitioner has not made a misdeclaration in the application filed by him. However, since petitioner got relieved with retrospective effect, it is a matter to be seen whether the misdeclaration in the application itself entitles the Bar Council to remove petitioner from its roll. This is a matter to be decided by the Bar Council of India as State Bar Council has no authority to interfere with this.

Counsel submitted that Bar Council of Kerala has not decided in making reference to the Bar Council of India.

In the circumstances, writ petition is disposed of with a direction to respondents to immediately refer the matter to Bar Council of India, if they have already decided in the matter. If decision for reference is not taken, then Bar Council can decide the matter after hearing petitioner's objection and depending on the decision either reference will be made or decision will be communicated to the petitioner at the earliest. If reference is made, I am sure Bar Council of India will give priority for petitioner's case as it is a case of enrolled person not allowed to practice.

C.N.RAMACHANDRAN NAIR, JUDGE

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